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Date 8/18/86

Surname [REDACTED]

[REDACTED]
[REDACTED]
10 JUL 1986

Dear Applicant:

This refers to your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information furnished shows that you were incorporated on [REDACTED], and that you applied for recognition of exemption on [REDACTED], which is more than 15 months from the date of your incorporation. Your By-laws provide that you are a membership organization and provide for membership categories. However, the information furnished shows that you presently do not have members.

Your Articles of Incorporation state that your primary purpose "is to transact the business of conducting all types of contests relating to mining, timbering and other industry and to conduct all other business not forbidden by law." Further, your creating document does not contain a proper limitation clause, or a proper dissolution provision. However, you have submitted proposed amendments to your Articles that will cure these defects.

You state that you sponsored two-day mining contests in both [REDACTED] and [REDACTED]. Entrants pay \$[REDACTED] per event (\$[REDACTED] for the 4 events). You award monetary prizes for those finishing in 1st, 2nd, or 3rd place in each event. You also award a prize to those entrants who finish 1st, 2nd, and 3rd overall. The contests are open to the general public.

The financial information furnished shows that you received in excess of \$[REDACTED] in [REDACTED], and in excess of \$[REDACTED] in [REDACTED]. In [REDACTED] you expended in excess of \$[REDACTED] for contest expenses (\$[REDACTED] in prize money) and in [REDACTED] you expended in excess of \$[REDACTED] for contest expenses (\$[REDACTED] in prize money).

You claim that you are operating for educational purposes because the contest events instruct the public about mining. The contest events appear to be primarily spectator events such as golf tournaments, tennis matches, and horse shows where the main attraction is individual participants competing for prizes and trophies. There is no information to reflect that the public receives any instruction about the various tasks performed by miners and how the contest events relate to the actual jobs of miners.

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Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 508(a)(2) of the Code provides that an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3) for any period before giving notice that it is applying for recognition of exempt status, if such notice is given after the time prescribed by regulation.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that, in general, an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes, and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(1)(iv) of the regulations provides that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3) of the Code. The fact that the actual operations of such an organization have been exclusively in furtherance of one or more exempt purposes shall not be sufficient to permit the organization to meet the organizational test. Similarly, such an organization will not meet the organizational test as a result of statements or other evidence that the members thereof intend to operate only in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the federal government, or to a state or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the state in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engaged primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.508-1(a)(2)(i) of the Income Tax Regulations provides that an organization seeking exemption under section 501(c)(3) of the Code must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized. Such notice is filed by submitting a properly completed and executed Form 1073, Application for Recognition of Exemption, with the key District Director.

Section 1.508-1(a)(3)(i) of the regulations provides in part for the following exception to the filing requirements of section 508(a):

- (a) any organization which is not a private foundation ... and the gross receipts of which in each taxable year are normally not more than \$5,000 ...;

Your Articles of Incorporation empower you to engage in activities that do not come within the ambit of section 501(c)(3) of the Code. Further, your Articles do not provide for distribution to a 501(c)(3) organization on dissolution. Accordingly, your creating document as currently worded does not meet the organizational test under section 501(c)(3).

Furthermore, and more important, the information furnished shows that your exclusive activity has been the annual promotion and conduct of a mining contest. The promotion and conduct of such a contest is not in and of itself in furtherance of an educational or charitable purpose.

An activity is considered educational where it educates and instructs on subjects useful to the individual and beneficial to the community. It appears that whatever educational value there is to the mining contest, is incidental to its function as a spectator event. Thus, the promotion and sponsoring of the mining contest is not an educational activity within the meaning of section 501(c)(3) of the Code.

Moreover, the financial information furnished does not reflect that any funds are used for charitable endeavors. The information shows that more than one-half of your funds go for prize money, that approximately \$[REDACTED] is used for related social events, and the balance for overhead expenses. Thus, it appears that none of your funds are used for charitable works. Accordingly, you are not operated for charitable purposes within the meaning of section 501(c)(3) of the Code.

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Therefore, based on the information submitted, it appears that the basic thrust of your operations is to promote and conduct a mining contest as a sporting event with no funds being devoted to charitable endeavors.

Even if you amended your Articles of Incorporation and otherwise established that you were operating exclusively for one or more 501(c)(3) purposes, you would not qualify for retroactive recognition of exemption under section 501(c)(3) of the Code, because you did not file your exemption application within 15 months from the date of your creation (as required by section 508(a)(2) of the Code) and you do not meet any of the exceptions set out in section 1.508-1(a)(3)(i) of the regulations.

We note that the information submitted on June 4 contains a perjury statement signed by a Mr. Keane, an attorney. If you want Mr. Keane to represent you in this matter before the Service we will need a Power of Attorney Form 2848 from you so authorizing. We are including a copy of this letter and two copies of Form 2848 for your convenience.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(3) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in

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[REDACTED]

Seattle, Washington. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with Code section 6104(c).

Sincerely yours,

[REDACTED]

Chief, Exempt Organizations
Rulings Branch

Enclosures
Copy of Letter
Form 2848 (2)

cc: [REDACTED]
Attn: EO Group

cc: [REDACTED]
[REDACTED] State Officials

[REDACTED]
correction made by [REDACTED] 6-24-86

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]					
Surname	[REDACTED]	[REDACTED]					
Date	6/24/86	7-8-86					

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